SUPREME COURT U. S.

MAR 4 1969

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IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1968

No. 1107

ROBERT WOODROW WILSON,

Petitioner

v.

STATE OF MARYLAND,

Respondent.

PETITION FOR WRIT OF CERTIORARI TO THE COURT OF APPEALS OF MARYLAND

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Washington, D. C. · THIEL PRESS · 202 · 393-0825

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IN THE

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No.

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STATE OF MARYLAND,

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OPINION BELOW

The sole reported opinion in this case is *Wilson v. State of Maryland*, 4 Md. App. 192, 242 A.2d 194 (1968). The portion of the opinion pertinent to this petition is limited to 4 Md. App., at pages 194-201.

JURISDICTIONAL GROUNDS

I.

By order entered on November 26, 1968, the Court of Appeals of Maryland denied a petition for a writ of certiorari to the Court of Special Appeals of Maryland. *Wilson v. State of Maryland,* Miscellaneous Docket No. 79, September Term, 1968.

The Court of Special Appeals of Maryland, in an opinion filed on May 21, 1968, and by Mandate of June 20, 1968, affirmed the trial court. *Wilson v. State of Maryland,* No. 269, September Term 1967, 4 Md. App. 192, 242 A.2d 194 (1968). Petitioner was found guilty of manslaughter at the trial before a jury.

Review is sought of the decision of the Court of Appeals of Maryland and of the Court of Special Appeals of Maryland, by writ of certiorari to the Court of Appeals of Maryland.

II.

Jurisdiction to review those decisions is conferred by Supreme Court Rules, Rule 19.1.(a) and (b) and by the Constitution of the United States of America, Amendment VI and Amendment XIV, Section 1.

QUESTION PRESENTED

Where a trial judge affirmatively advises the jurors that they can discuss the case among themselves as the case progresses, before the accused presents his evidence, before instructions by the court, and before closing argument, is the accused denied a fair and impartial trial and deprived of life, liberty, or property without due process of law?

CONSTITUTIONAL PROVISIONS INVOLVED

"In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed. . . .
U.S. Const. Amend. VI, cl. 1, 1 U.S.C. XLVI.

No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty or property, without due process of law. . . ."
U.S. Const. Amend. XIV, Section 2; 1 U.S.C. XLVII.

STATEMENT OF THE CASE

On July 21, 1967, the trial of this petitioner commenced before a jury.

At the first recess after the trial began, after the jury had been selected, but before opening statements, the court gave the following admonition to the jury, in part:

"Members of the jury, you have got to be careful through this entire trial not to discuss this case among yourselves or with anyone else *other than when you are at least among yourselves or other than when you are in the jury room.* And whenever you return from luncheon recess or anything *go to the jury room assigned* when you come back rather than staying in the hall. *If you get back early go on in the jury room and we will adhere to this practice throughout the entire trial.* . . ." (Appendix page 8) (Emphasis added)

Immediately upon return from the recess, and before the jury returned to the courtroom, a timely request was made by your petitioner for the court to modify its admonition and to advise the jury that they should not talk about the case until all of the evidence was in, whether they were alone in the jury room or otherwise (appendix page 8).

The court refused to modify its admonition to the jury and never countermanded the original admonition. The trial judge, in refusing to modify it, stated:

> "Well, they have a right to discuss it. They don't have a right to take it up on the basis of determining the case itself, but they certainly have got a right—You have got to be practical about it. They are going to discuss it during a recess. But the thing you are aiming at and we always instruct them not to take the case up, not to vote and not to make any final determination. This is true of any case. But to tell them that they can't talk about it in there is not realistic. They are going to. You are not going to stop it. But the only purpose in telling them that, the intention of telling them that, is not to make any conclusion on the case, not to take any vote and not to make up their minds. But you can't deny them the right of discussing the case." (All later admonitions by the Court were with reference only to separations of the jury, not with reference to conduct in the jury room) (Appendix page 8-9)

Your petitioner was ultimately found guilty of manslaughter and sentenced. On August 23, 1967, timely notice of appeal to the Court of Special Appeals was filed.

Your petitioner raised the following question on appeal:

> "Was the defendant denied a fair and impartial trial when the trial judge in his admonition to the jury affirmatively advised that throughout the trial they could talk about the case as long as they were alone among themselves or in the juryroom?" (Appendix page 9)

On May 21, 1968, the Court of Special Appeals of Maryland affirmed the conviction of the petitioner, answering the question raised in the negative. The Court of Special Appeals of Maryland issued its Mandate on June 20, 1968.

Later on June 20, 1968, a petition for writ of certiorari was timely filed in the Court of Appeals of Maryland. Your petitioner argued the following proposition in its petition:

> "The trial judge's admonition to the jury, just prior to their first separation, that they should not discuss the case amongst themselves or with anyone else, 'other than when you are at least among yourselves or other than when you are in the jury room', violated the petitioner's Constitutional rights to due process of law and to a fair and impartial jury trial."

Certiorari was denied by the Court of Appeals of Maryland by order of November 26, 1968, from which this petition ensues.

ARGUMENT

The Court of Special Appeals of Maryland (to which the Court of Appeals of Maryland refused to issue a writ of certiorari), has decided a federal Constitutional question of substance not heretofore determined by this Court. Supreme Court Rules, Rule 19.1.(a). It has rendered a decision in conflict with the decision of the Circuit Court of Appeals, 8th Circuit, in *Winebrenner v. United States*, 147 F.2d 322 (8th Cir. 1945), from which certiorari was denied, 325 U.S. 863. Supreme Court Rules, Rule 19.1.(b).

Crystallization of the divergence between the *Wilson* and *Winebrenner* decisions was stated by the Maryland Court of Special Appeals, as follows:

> "We think it a fair construction of the admonition given by the trial judge that the admonition conveyed to the jurors that they could discuss the case among themselves before its final submission to them when they were together in the jury room, as the appellant's counsel alleged." *Wilson, supra,* at page 196.
>
> "(The *Winebrenner* court) found that the right to a fair trial and due process of law were violated and reversed the judgment, remanding the case for a new trial. We do not agree that it necessarily follows that an accused is denied a fair trial and due process of law because of the absence of an admonition not to discuss the case before its final submission to

them or because they are told, in effect, that they may so discuss it." *Wilson, supra,* at page 198.

"We find no denial of the appellant's constitutional right to a fair trial and are not persuaded by *Winebrenner* that the right to due process of law is properly extended to brace the matter. We deem a proper due process of law standard for a criminal trial to be one tried in accordance with the Bill of Rights and laws passed pursuant to constitutional power, guaranteeing to all alike a trial under the general law of the land. We think that the trial of the appellant complied with this standard.

It may be the better practice, in order to preclude any possibility of misconduct (insofar as admonition can do so) that every jury be admonished not to discuss the case among themselves, even when in the jury room, until it is finally submitted to them. But having found that it is not required, constitutionally or by statute, rule or decision, we cannot find prejudicial error in the trial judge's admonition under the facts and circumstances of the instant case." *Wilson, supra,* at pages 200-201.

The spirit of the *Winebrenner* court's opposing conclusion is exemplified in the words of Circuit Judge Gardner:

"By due process of law is meant, 'a law which hears before it condemns; which proceeds upon inquiry and renders judgment only after trial'. The jury should not discuss the case among themselves because, first, they have not heard all of the evidence; second, they have not heard the instructions of the court as to how this evidence is to be considered by them, and neither have they heard the arguments of counsel. . . ." *Winebrenner, supra,* at page 328.

The conviction in the *Winebrenner* case was overturned and remanded for a new trial because:

"Whether guilty or innocent, appellees were entitled under the Fifth and Sixth Amendments under the Constitution to a fair trial to an impartial jury. Here the court not only declined to admonish the jury that they should not discuss the case among themselves, nor form nor express an opinion as to the innocence or guilt of the defendant until the case had finally been submitted to them, but the jury was in effect advised that the jurors might discuss the case among themselves if careful not to make up their minds finally and definitely about it. . . ." *Winebrenner, supra,* at page 327.

CONCLUSION

WHEREFORE, your petitioner prays that a writ of certiorari issue to the Court of Appeals of Maryland to review the decisions in this case, in order to resolve the question presented by your petitioner.

Respectfully submitted,

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APPENDIX

The following items comprise those portions of the record agreed by petitioner and respondent as being pertinent to this petition.

TRIAL JUDGE'S ADMONITION

"Members of the jury, you have got to be careful throughout this entire trial not to discuss this case among yourselves or with anyone else other than when you are at least among yourselves or other than when you are in the jury room. And whenever you return from luncheon recess or anything go to the jury room assigned when you come back rather than staying in the hall. If you get back early go on in the jury room and we will adhere to this practice throughout the entire trial. . . ."

REQUEST FOR INSTRUCTIONS

MR. FREEMAN:

". . . I detected in the instruction to the jury about discussing the case that they should not discuss it among themselves anywhere except in the jury room. I would request, if the Court please, an instruction that until the case is terminated that they should not even discuss it there."

TRIAL JUDGE'S OPINION

THE COURT:

"Well, they have a right to discuss it. They don't have a right to take it up on the basis of determining the case itself, but they certainly have got a right—You have got to be practical about it. They are going to discuss it during a recess. But the thing you are aiming at and we always instruct them not to take the case up, not to vote and not to make any final

determination. This is true of any case. But to tell them that they can't talk about it in there is not realistic. They are going to. You are not going to stop it. But the only purpose in telling them that, the intention of telling them that, is not to make any conclusion on the case, not to take any vote and not to make up their minds. But you can't deny them the right of discussing the case."

QUESTION PRESENTED TO THE COURT OF SPECIAL APPEALS OF MARYLAND

Was the defendant denied a fair and impartial trial when the trial judge in his admonition to the jury affirmatively advised that throughout the trial they could talk about the case as long as they were alone among themselves or in the jury room?

LATER ADMONITIONS OF THE TRIAL JUDGE

"Very well, members of the jury, *very briefly we reiterate our previous caution to you*. Don't worry about the case until we return tomorrow, or Monday, rather. So you do have the weekend to concern yourselves with. You are not to visit the scene, you are not to discuss the case, and if you should have someone bring an article—and we do not know that there are going to be any—but if there are any articles on TV, radio or anything else, you are to divorce yourself from any of this because there is always a possibility that it may contain something which is not in the evidence, or it may contain somebody else's thoughts or reactions to what was presented. And you are entitled to all of the evidence, but no one of you is entitled to have anything that the others don't have the benefit of."

"THE COURT: Members of the jury, don't discuss the case among yourselves or with anyone else until we return here. It is about eighteen after now so we will use this clock to go by and come back in here by twenty minutes after one. I think the best thing

to do would be, as you come back, instead of staying in the hallway to go into the jury room and we will call for you just about twenty after one."

"Members of the jury, because the State does not have any more witnesses right now and it takes some while to get them, the remaining witnesses, we are going to conclude for the day and again warn you not to discuss the case among yourselves or with anyone else, not to visit the scene, and sort of forget about the case *until you return here tomorrow*. We are going to start at 9:30 instead of 10:00 o'clock. Come into this courtroom, and if you will be here promptly we will hope to start right promptly at 9:30 in the morning."

"Just a minute, members of the jury. We are going to let you go to lunch. Use the same caution about talking about the case. When you return as you return, go to the jury room, and if you will be back there by one o'clock we will call you as soon as we can after that. Using this clock to go by it is about seven minutes of now and as you return you can go into the jury room and all try to be there by one o'clock."

"Members of the jury, we will again caution you as we have done all along not to discuss the case among yourselves or with anyone else until we return tomorrow. There are some matters the Court has to take care of starting at quarter after nine in the morning, so we won't resume again until ten o'clock. So if you will be here about five minutes in your seats we will promptly resume by ten, and the other matters the Court has to attend to will be concluded by that time. We have every reason to believe they will be."

"Members of the jury, remember the Court's caution to you many times throughout this case. Don't discuss the case among yourselves or with anyone else until you return after lunch. After you return after lunch you may go into the jury room for Courtroom 2. It is a bad time to break for lunch, I guess, although you don't have the other jurors to compete

with you this week, for these great facilities we have here for eating. But certainly it is going to take the Court some time to hear motions and it is going to take us a while to go over prayers before we give the case to you. It is a quarter after by this clock. Now, I would think perhaps by 1:30 if you will be back in the jury room for Courtroom 2 by 1:30, and as you do come back don't stay out in the hall, go on to the jury room so you will be away from the rest of the people, and as soon thereafter as we can reach the case, of course, we will let you have it.

You are free to go then, at this time for lunch."

Reported

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

September Term, 1967

No. 269

ROBERT WOODROW WILSON

v.

STATE OF MARYLAND

Murphy, C.J.
Anderson
Morton
Orth
Thompson,
JJ.

Opinion by Orth, J.

Filed: May 21, 1968

The appellant was found not guilty of murder but guilty of manslaughter under an indictment charging him with murder by a jury in the Circuit Court for Prince George's County. He was sentenced to imprisonment for a term of four years.

The questions presented on appeal from the judgment are herein considered in the order in which they were argued before this Court.

I

"*Was the defendant denied a fair and impartial trial when the trial judge in his admonition to the jury affirmatively advised that throughout the trial they could talk about the case as long as they were alone among themselves or in the jury room*?"

Trial commenced on 21 July 1967, resumed on 24 July and 25 July and concluded on 26 July. The jury separated during each trial day for lunch and at the end of each day of trial. The trial judge admonished the jury immediately before each separation, seven times in all. After the first admonition, given before the luncheon recess of court on the first day of trial, the record shows the following colloquy between the court and counsel for the appellant, out of the presence of the jury:

> "MR. FREEMAN: * * * I detected in the instruction to the jury about discussing the case that they should not discuss it among themselves anywhere except in the jury room. I would request, if the Court please, an instruction that until the case is terminated that they should not even discuss it there.
>
> THE COURT: Well, they have a right to discuss it. They don't have a right to take it up on the basis of determining the case itself, but they certainly have got a right—You have got to be practical about it. They are going to discuss it during a recess. But the thing that you are aiming at and we always instruct them not to take the case up, not to take a vote and not to make any final determination. This is true of any case. But to tell them that they can't talk about it in there is not realistic. They are going to. You are not going to stop it. But the only purpose in telling them that, the intention of telling them that, is not to make any conclusion on

the case, not to take any vote and not make up their minds. But you can't deny them the right of discussing the case.

MR. FREEMAN: Well, I have made my request and I suppose it has been denied.

THE COURT: Well, we are telling you what we do and what the usual meaning of it is, which I don't think you are familiar with, and that is why we are doing it, to enlighten you.

MR. FREEMAN: Thank you."

We think it a fair construction of the admonitions given by the trial judge that the admonitions conveyed to the jurors that they could discuss the case among themselves before its final submission to them when they were together in the jury room as the appellant's counsel alleged. The appellant does not claim that the cautions given by the trial judge with regard to the conduct of the jurors while separated were insufficient or improper.[1] But he urges that before the case is finally submitted to the jury, they may not properly discuss it among themselves whether or not they are separated and therefore, the trial judge committed prejudicial error. There is no statute or rule in this jurisdiction requiring the trial judge to admonish the jury that they are not to discuss the case in the jury room before its final submission to them.[2] Nor are we aware of a case which

[1]The trial court may, in its discretion, permit jurors sworn to try a criminal action to separate at any time before the submission of the case to the jury. *Md. Code* (1968 Repl. Vol.), Art. 51, § 29; *Graef v. State*, 1 Md. App. 161. The appellant does not challenge the exercise of the discretion of the trial court in permitting the jury to separate. For a discussion of the separation of the jury before the submission of the case see *Midgett v. State*, 223 Md. 282. For a discussion of the separation of the jury after submission see *Kennard v. State*, 177 Md. 549.

[2]*Code*, Art. 51, § 29 does not require an admonition even upon separation of the jury. In a number of other states, upon adjournment, admonitions by the court to the jury are required by statute. The content of the admonition as provided by the various statutes is substantially the same - it is the duty of the jury not to converse

compels us to so hold. "It is, however, our established practice that an admonition be given by the trial court to members of the jury, *prior to separation*, against discussing the case with others or among themselves." (emphasis added). *Midgett v. State*, 223 Md. 282, 293. The Court said in *Midgett*, at page 295, that the main objectives sought by the usual admonitions were "to avoid any outside influences and to cause the jury's final verdict to be based solely on the evidence and on the whole of the evidence

among themselves or with anyone else on any subject connected with the trial, or to form or express any opinion thereon until the cause is finally submitted to them. But the statutes are not uniform as to whether the admonitions must be given on any adjournment or only when the jury is separated. In California (Cal. Penal Code, § 1122), Oklahoma (Okla. St. [1961], § 854), and Nevada (Nev. Rev. St. [1963], § 175.325), for example, the jury must be admonished "whether permitted to separate or kept in charge of officers." In Kansas (Kan. St. Ann. [1964], § 62-1446: See *State v. Bussey*, 58 K. 679, 688, 50 P. 891), Missouri (Mo. Rev. St. [1959], § 546.230), Ohio (Page's Ohio Gen. Code [1937], § 13443-17) [the caution here as to conversation is not to converse with "any person" without designating "among yourselves"], Kentucky (Ky. Rev. St. [1962], § 29.302) [the caution here as to conversation is not to converse with "any other person" without designating "among yourselves"] and Nebraska (Rev. St. of Neb. [1943, reissued 1964] § 29-2022) the admonition must be given only on separation of the jury.

We are not aware of a statute requiring that the jury be admonished on adjournment in federal trials. However *Mathes and Devitt, Federal Jury Practice and Instructions* (1965) ch. 3, § 3.02, p. 23, states:

> "The jury should be admonished not to converse or communicate among themselves or with others upon any subject touching the merits of the case and not to form or express any opinion on the case until it has been finally submitted to them."

United States v. Viale, 312 F.2d 595, 602 (2d Cir.), cert. den. 373 U.S. 903 is cited as authority for the statement. But in *Viale* the court said, p. 602:

> "It has never been the law of this circuit that the trial judge must admonish the jurors not to discuss the case among themselves, although it has been the practice of most of the judges to suggest that it is advisable to refrain from such discussion until the case is concluded."

presented in the court." But we do not construe *Midgett* to hold that the jurors may not discuss the case before its final submission to them when they are not separated. There the contention was that the conviction should be reversed because upon several adjournments during the course of the trial when the jury was allowed to separate, the court did not caution the jurors against discussing the case. The opinion must be considered within the frame of reference of the contention and we do not feel that it is applicable to a jury not separated. The usual caution against the jurors discussing the case among themselves applies when the jury is separated and we are not persuaded otherwise because the Court, in *Midgett*, in finding that there had been substantial compliance with the rule as to admonitions, noted that the trial court had cautioned the jury not to discuss the case "with anyone during recess, nor amongst yourselves" and had elaborated on the latter point, stating that it was "because you are supposed to discuss this case only when it is completed and it is turned over to you when you retire to the jury room for a verdict." at page 294. The appellant relies on *Winebrenner v. United States*, 147 F.2d 322 (8th cir.) in which the jury was admonished not to discuss the case "to such an extent that you form definite fixed ideas that would prevent you from changing after you heard all the evidence in the case." page 327. The court felt that this caution warranted the jury to discuss the case among themselves before final submission of it to them. It believed that this was harmful because the jury had not heard all the evidence, they had not received the court's instructions "as to how the evidence was to be considered by them", they had not heard argument of counsel and they were enabled "to divide themselves into separate groups and distinct deliberative bodies." It found that the right to a fair trial and due process of law were violated and reversed the judgment, remanding the case for a new trial. We do not agree that it necessarily follows that an accused is denied a fair trial and due process of law because of the absence of an admonition not to discuss the case be-

fore its final submission to them or because they are told, in effect, that they may so discuss it. Of course, it is the constitutional right of a defendant in a criminal case to be tried by an impartial jury. Amendment VI to the Constitution of the United States, Article 21 of the Declaration of Rights of Maryland, *Jones v. State*, 2 Md. App. 429. "In our present state of society, all that can be required of a juror, to render him competent, is that he shall be without bias or prejudice for or against the accused, and that his mind is free to hear and impartially consider the evidence, and to render a verdict thereon without regard to any former opinion or impression existing in his mind, formed upon rumor or newspaper reports." *Garlitz v. State*, 71 Md. 293, 300 quoted in *Baltimore Radio Show, Inc. v. State*, 193 Md. 300, 328. A defendant is entitled to be tried by a jury composed of competent jurors, "exercising their judgment with perfect freedom from improper influences." *Margulies v. State*, 153 Md. 204, 211.[3] We think that the jurors properly may be regarded, in the absence of a showing to the contrary, as performing their duties as they have sworn to perform them.[4] The trial court made it clear in its admonitions that while the jurors were separated they were not to discuss the case "* * * among yourselves or with anyone else * * * or to read any newspapers or listen to any broadcasts or look at any television or anything concerning this particular case * * * The point is we just don't want any outside interference[5] * * * [Y]ou are to divorce yourself from any of this because there is always a possibil-

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[3]The purpose of *voir dire* examination is to ascertain the existence of cause for disqualification. *Borman v. State*, 1 Md. App. 276, 279.

[4]A usual form of the oath administered to the jurors by a clerk of the court is substantially as follows:

"Members of the Jury, you and each of you do solemnly promise and declare that you will well and truly try the issues joined between the State of Maryland, and _____, defendant, and a true verdict give according to the evidence."

[5]Contained in the admonition before luncheon recess on 21 July.

ity that it may contain something which is not in the evidence, or it may contain somebody else's thoughts or reactions to what was presented. And you are entitled to all of the evidence, but no one of you is entitled to have anything that the others don't have the benefit of * * *[6]." In the instant case there is no hint or suggestion that the verdict of the jury was not based solely on the evidence and the whole of the evidence or that the jurors committed their minds until all the evidence was presented to them and we see no reason for us to assume to the contrary. There was no showing that the appellant was prejudiced and we feel that the refusal of the trial judge to admonish the jury not to discuss the case among themselves in the jury room or even the possibility that they did discuss it does not present a matter of constitutional dimension. We find no denial of the appellant's constitutional right to a fair trial and are not persuaded by *Winebrenner* that the right to due process of law is properly extended to embrace the matter. We deem a proper due process of law standard for a criminal trial to be one tried in accordance with the Bill of Rights and laws passed pursuant to constitutional power, guaranteeing to all alike a trial under the general law of the land. We think that the trial of the appellant complied with this standard.

It may be the better practice, in order to preclude any possibility of misconduct (insofar as admonition can do so) that every jury be admonished not to discuss the case among

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[6]Contained in the admonition at the end of the trial day on 21 July. The jury was cautioned not to discuss the case among themselves or with anyone else while separated at each subsequent adjournment of court. The advisory instructions of the trial judge to the jury at the conclusion of all the evidence included that the jury was to determine for themselves the weight of the evidence and the credit to be given the testimony of the various witnesses, that the appellant must be proved guilty beyond a reasonable doubt on evidence which "must be presented in court" and that in considering the verdict the jury "must look for an answer only to the evidence received in this trial."

themselves, even when in the jury room, until it is finally submitted to them.[7] But having found that it is not required, constitutionally or by statute, rule or decision, we cannot find prejudicial error in the trial judge's admonitions under the facts and circumstances of the instant case.

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[7]This does not appear to be the general practice in Maryland, although, as noted, it is the established practice to admonish the jury upon separation not to discuss the case among themselves. We understand that a Handbook for Jurors is given to jurors serving in the Courts of Baltimore City. It includes the following: "Jurors must not discuss the case with others or read about it in the newspapers or listen to broadcasts about it until after the trial is ended and the verdict returned. Their decision must be controlled by the evidence in the case and by nothing else. If an outsider tries to talk with a juror about a case on which he is sitting and while it is pending, the juror should refuse to listen. He should tell that person it is improper for him to discuss the case or receive any information except in the courtroom * * * Jurors should be careful while the case is on trial not to communicate on any subject with any lawyer or witness in the case." This is in accordance with the main objectives of the usual admonitions given prior to separation.

MANDATE

Court of Special Appeals of Maryland

No. 269, September Term, 1967

Robert Woodrow Wilson	Appeal from the Circuit Court for Prince George's County
	Filed: November 20, 1967
v.	May 21, 1968: Opinion by Orth, J.
State of Maryland	Judgment Affirmed.

STATEMENT OF COSTS:

In Circuit Court:

Record	$ 20.00
Stenographer's Costs	940.00

In Court of Special Appeals:

Filing Record on Appeal	——
Printing Brief for Appellant	$69.24
Reply Brief	——
Portion of Record Extract–Appellant	——
Appearance Fee–Appellant	——
Printing Brief for Appellee	$70.00
Portion of Record Extract–Appellee	——
Appearance Fee–Appellee	——

STATE OF MARYLAND, Sct:

I do hereby certify that the foregoing is truly taken from the record and proceedings of the said Court of Special Appeals.

In testimony whereof, I have hereunto set my hand as Clerk and affixed the seal of the Court of Special Appeals, this twentieth day of June A.D. 1968.

Julius A. Romano

Clerk of the Court of Special Appeals of Maryland.

Costs shown on this Mandate are to be settled between counsel and NOT THROUGH THIS OFFICE

PROPOSITION PRESENTED TO THE COURT OF APPEALS OF MARYLAND IN PETITION FOR A WRIT OF CERTIORARI

The trial judge's admonition to the jury, just prior to their first separation, that they should not discuss the case amongst themselves or with anyone else "other than when you are at least among yourselves or other than when you are in the jury room", violated the petitioner's Constitutional rights to due process of law and to a fair and impartial jury trial.

In the
COURT OF APPEALS
OF MARYLAND

Misc. Docket No. 79

September Term, 1968

(No. 269 - September Term, 1967
Court of Special Appeals)

ROBERT WOODROW WILSON

v.

STATE OF MARYLAND

ORDER

Upon consideration of the petition for a writ of certiorari to the Court of Special Appeals in the above entitled case, it is

ORDERED by the Court of Appeals of Maryland that the said petition be, and it is hereby, denied.

Hall Hammond
Chief Judge

Date: November 26th, 1968.